

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRADLEY CARROLL, et al.,

Plaintiffs,

Case No.: 04-CV-74984-DT

Hon. John Corbett O'Meara

Mag. Judge Virginia Morgan

v.

CITY OF DETROIT,

Defendant.

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Class Counsel

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**ORDER PRELIMINARILY APPROVING CLASS
SETTLEMENT AND SCHEDULING FAIRNESS HEARING**

In accordance with Fed. R. Civ. P. 23(e) and upon consideration and review of the Statement Regarding Proposal for Settlement and the Court having been fully advised in the premises, **IT IS HEREBY ORDERED:**

1. Counsel advised the Court that the parties have agreed, subject to final approval

by this Court and following notice to the Classes¹ (hereafter the "Class") as described in Paragraph 6 below, and a final approval hearing (the "Fairness Hearing"), to settle this Class Action upon the terms and conditions set forth in the Statement Regarding Proposal for Settlement (the "Proposal for Settlement"), which has been filed with the Court.

2. The Court has reviewed the Statement Regarding Proposal for Settlement, as well as the files, records, and proceedings to date in this matter.

3. Based upon preliminary examination, it tentatively appears to the Court that the Proposal for Settlement is fair, reasonable, and adequate and that a Fairness Hearing should be held after notice to the Class to determine whether the Proposal for Settlement is fair, reasonable, and adequate, and whether a Final Order and Judgment should be entered in this action, based upon that Proposal for Settlement.

¹The Classes are defined by this Court's January 18, 2006 Opinion and Order Adopting in Part and Rejecting in Part Report and Recommendation, which adopted Magistrate Judge Capel's July 20, 2005 Order Granting Motion to Certify the Class, as follows:

First Class certified:

All persons charged by the City of Detroit for or convicted by the City of Detroit of violating City of Detroit Ordinance §5-1-3 (selling tickets in a restricted area) at any time during the period beginning December 21, 2001 and continuing up to and concluding on April 6, 2004.

* * *

Second Class certified:

All persons charged by the City of Detroit for or convicted by the City of Detroit of violating City of Detroit Ordinance §5-1-3 (selling tickets in a restricted area) at any time during the period beginning April 7, 2004 up to and continuing up to and concluding with the date of entry of judgment with respect to liability in this matter [January 18, 2006].

4. The Statement Regarding Proposal for Settlement, including all exhibits thereto, is tentatively approved as fair, reasonable, and adequate. The Court finds that: (a) the Proposal for Settlement resulted from extensive arm's length negotiations; and (b) the Notice of Proposed Settlement and Summary Notice are sufficient to warrant notice thereof and of the Fairness Hearing to Class Members.

5. The Fairness Hearing shall be held before this Court on August 25, 2008 at 10:30 a.m. to determine whether the Proposal for Settlement is fair, reasonable, and adequate and should be approved. The Court shall also rule on Class Counsel's Motion for Approval of Attorneys' Fees and Reimbursement of Costs and Expenses (the "Fee Application"). Motions or briefs in support of final approval of the Proposal for Settlement and the Fee Application shall be filed with the Court by July 15, 2008. The Fairness Hearing may be postponed, adjourned, or continued by order of the Court without further notice to the Class. After the Fairness Hearing, the Court may enter a Final Order and Judgment in accordance with the Proposal for Settlement that will adjudicate the rights of the Class Members with respect to the claims being settled.

6. On or before July 1, 2008, Class Counsel shall cause a Notice of Proposed Settlement ("Notice") to be mailed, by First Class U.S. Mail, to the last known addresses of each Class Member who has heretofore provided an Affidavit and Proof of Claim to Class Counsel. The Notice shall be substantially in the form of Exhibit A to the Proposal for Settlement. In addition to the individual mailings, on or before July 8, 2008, Class Counsel will arrange for the publication of a Summary Notice substantially in the form of Exhibit B to the Statement Regarding Proposal for Settlement on two (2) consecutive days in the Legal Notice Section of the *Detroit Free Press* and the *Detroit News*.

7. The Court finds that the Notice and Summary Notice and the manner of their dissemination described in Paragraph 6 is the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise the Class of this Proposed Settlement. The Court further finds that the Notice and Summary Notice are reasonable, that they constitute due, adequate, and sufficient notice to all persons entitled to receive notice, and that they meet the requirements of due process.

8. Any Class Member who has timely submitted an Affidavit and Proof of Claim, may object to the fairness, reasonableness or adequacy of the Proposed Settlement, or the Fee Application, or both. Class Members may do so either on their own or through counsel hired at their expense. Objections must be filed on or before July 31, 2008, with the Clerk of the Court for the U.S. District Court for the Eastern District of Michigan. On or before that same date, a copy of the objection must be mailed by first class mail to Class Counsel and defendant's counsel as described in the Notice of Proposed Settlement.

9. Any responses to objections to the Proposal for Settlement or the Fee Application, and any further briefs in support of the Fee Application, shall be filed with the Court by August 11, 2008.

10. In summary, the dates of performance are as follows:

(a) The Notice and Summary Notice shall be mailed to Class Members by July 1, 2008 and published by July 8, 2008, as set forth in Paragraph 6, above;

(b) Motions and briefs in support of the Proposed Settlement and Fee Application shall be filed and served by counsel on or before July 15, 2008;

(c) All objections to the Proposal for Settlement or Fee Application shall be filed and served by July 31, 2008;

(d) Any response to objections or motions and briefs in further support of the

Proposed Settlement shall be filed and served by counsel on or before August 11, 2008; and,

(e) The Fairness Hearing shall be held on August 25, 2008, at 10:30 a.m.

10. In the event the Proposal for Settlement is not approved by the Court, or for any reason the parties fail to obtain a Final Order and Judgment as contemplated in the Statement Regarding Proposal for Settlement, or the Proposal for Settlement is terminated for any reason, then the following shall apply:

(a) All orders and findings entered in connection with the Proposal for Settlement shall become null and void and have no force and effect whatsoever, shall not be used or referred to for any purposes whatsoever, and shall not be admissible or discoverable in this or any other proceeding;

(b) Nothing contained in this Order is, or may be construed as, any admission or concession by or against the Defendant or Plaintiffs on any point of fact or law;

(c) Nothing in this Order or pertaining to the Proposal for Settlement shall be used as evidence in any further proceeding in this case, including, but not limited to, motions or proceedings seeking treatment of this case; and,

(d) All of the Court's prior Orders having nothing whatsoever to do with proposed settlement shall, subject to this Order, remain in force and effect.

IT IS SO ORDERED this 1st day of July, 2008.

s/John Corbett O'Meara
United States District Judge